

In the High Court of New Zealand  
Nelson Registry

CIV-2017-485-182

**In the matter of** the Marine and Coastal Area (Takutai Moana) Act 2011

**And in the matter of** an application by Henare Tahuāroa-Watson whanau seeking recognition orders under that Act

**APPLICATION FOR RECOGNITION ORDERS**

Dated 24 March 2017

\$540

Case Manager
<b>Michaela</b>
Next Event: / /
29 MAR 2017
THE HIGH COURT WELLINGTON

SV

Counsel: Tom Bennion / Lisa Black  
 Bennion Law  
 181 Cuba St  
 PO Box 25433  
 Featherston Street 6140  
 Tel: 64-4-4735755  
 tom@bennion.co.nz / lisa@bennion.co.nz

**Ministry of Justice**  
 24 MAR 2017 10:39am  
**NELSON** nm

**To:** The Registrar of the High Court at Wellington  
**And to:** Tasman District Council  
**And to:** The Solicitor-General on behalf of the Attorney-General

**THIS DOCUMENT NOTIFIES YOU THAT:**

1. The Henare Tahuāroa-Watson whanau will on 24 March 2017 apply to the Court for recognition orders under the Act relating to a particular area of the common marine and coastal area around Whanganui Inlet bounded by on the landward parts by the line of mean high-water springs and on the seaward by the territorial sea ("Henare Tahuāroa-Watson whanau rohe moana") and marked by a red outline in the map attached as Appendix "A".
2. The orders sought are protected customary rights and customary marine title in the Henare Tahuāroa-Watson whanau rohe moana arising from:
  - 2.1. Permanent occupation of Whanganui Inlet by the Henare Tahuāroa-Watson whanau and use of the surrounding foreshore and seas from around the 1830s and up until today without substantial interruption;
  - 2.2. The taking of ika and shellfish;
  - 2.3. The taking of kekeno (seals), penguins, dolphins and whales;
  - 2.4. Taking of aquatic plants;
  - 2.5. Passage over and these areas in waka and landing of waka;
  - 2.6. Bathing;
  - 2.7. Collection of sand and stones, shingle and detritus;
  - 2.8. Designation of wāhi tapu;
  - 2.9. And all ways of life and cultural practices associated with the above takings and uses including cultural practices founded in spiritual beliefs including the saying of karakia tawhito, karanga, imposition of rāhui, exercise of kaitiakitanga and mana, naming of places in the sea to specify fishing areas and people who had authority over them;

- 2.10. and all other customary uses of the common marine and coastal area around Whanganui Inlet.

#### **DESCRIPTION OF APPLICANT GROUP**

Henare Tahuāroa-Watson whanau are an iwi that has occupied Whanganui Inlet for around 185 years Before Present.

#### **GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS RECOGNITION ORDER IS SOUGHT**

3. The Henare Tahuāroa-Watson whanau seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to the Henare Tahuāroa-Watson whanau rohe moana may be recognised by an order of the Court made on an application under s 100 of the Act.
4. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for protected customary rights meets the requirements of s 51(1) of the Act.
5. The Applicant Group meets the requirements in s 51 (1) of the Act because it:
  - 5.1. has exercised the rights before and since 1840;
  - 5.2. continues to exercise those rights in the Henare Tahuāroa-Watson whanau rohe moana in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and
  - 5.3. is applying for rights that have not been extinguished as a matter of law.

#### **GROUND ON WHICH THE CUSTOMARY MARINE TITLE RECOGNITION ORDER IS SOUGHT**

6. The Henare Tahuāroa-Watson whanau seeks a customary marine title recognition order on the grounds that its customary marine title relating to the Henare Tahuāroa-Watson whanau rohe moana may be recognised by an order of the Court made on an application under s 100 of the Act.
7. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for customary marine title meets the requirements of s 58 of the Act.

8. The Applicant Group meets the requirements in s 58 of the Act because it:
- 8.1. holds the Henare Tahuāroa-Watson whanau rohe moana in accordance with tikanga; and
  - 8.2. has, in relation to the Henare Tahuāroa-Watson whanau rohe moana exclusively used and occupied it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
  - 8.3. the customary marine title has not been extinguished as a matter of law.
9. In terms of matters that may be taken into account in determining whether the Applicant Group's customary marine title exists in the Henare Tahuāroa-Watson whanau rohe moana:
- 9.1. the Applicant Group have owned land abutting the Henare Tahuāroa-Watson whanau rohe moana and have done so, without substantial interruption, from 1840 to the present day; and
  - 9.2. the Applicant Group have exercised non-commercial customary fishing rights the Henare Tahuāroa-Watson whanau rohe moana and have done so from 1840 to the present day.

#### **PERSON TO HOLD THE ORDERS**

10. The Henare Tahuāroa-Watson whanau will be the holder of the orders.

#### **APPLICATION MADE IN RELIANCE**

11. This application is made in reliance on sections 51(1), 58, 59, 94, 98, 100, and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the affidavit of Trevor Watson which set out in full the basis on which the Henare Tahuāroa-Watson whanau is entitled to the recognition orders sought.

#### **CONTACT DETAILS OF THE APPLICANT AND PERSON NAMED TO HOLD THE ORDER**

12. The contact address of the Applicant and person named to hold the order is:

Dennis (Buna) K Riwaka

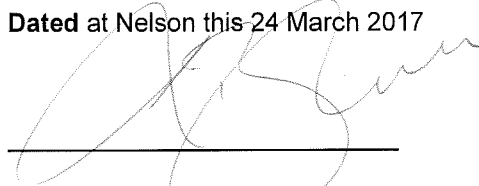
336 Waikawa Road,

Waikawa

The contact telephone number is 03 573 7356

The contact email is bunariwaka@hotmail.com

**Dated** at Nelson this 24 March 2017



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**Thomas H Bennion / Lisa Black**

Counsel for the Henare Tahuāroa-Watson whanau

This document is filed by Thomas Bennion, Solicitor for the Henare Tahuāroa-Watson whanau.

The address for service of the Henare Tahuāroa-Watson whanau is at the offices of Bennion Law, First Floor, 181 Cuba Street, Wellington.

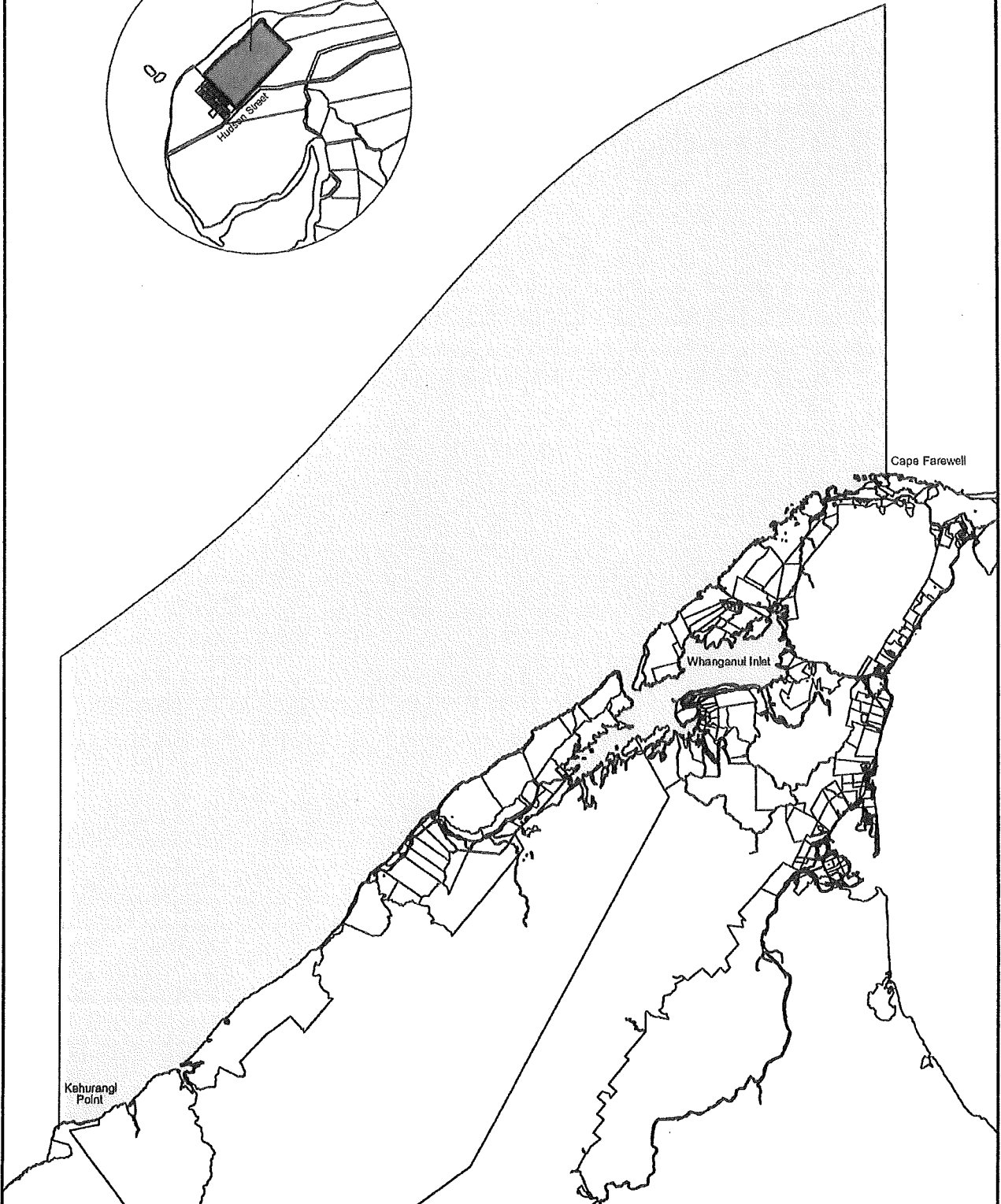
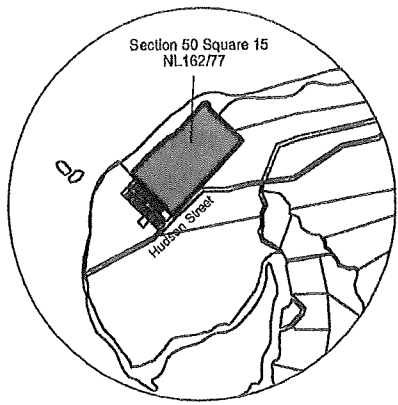
Documents for service on the above-named applicant may be left at that address for service or may be:

Posted to the solicitor at PO Box 25-433, Featherston Street,  
Wellington 6146; or

Transmitted to the solicitor by email to tom@bennion.co.nz.

# APPENDIX "A"

## HENARE TAHUAROA-WATSON WHANAU ROHE MOANA



**GILBERT, HAYMES & ASSOCIATES LTD**  
REGISTERED SURVEYORS  
P.O. BOX 380-14 QUEEN STREET-BLENHEIM  
PHONE (03)5787984-FAX (03)5787709  
E-MAIL office@gilberthaymes.co.nz

Customary Marine Title Application

SCALE 1:250000 - A4  
DATE 15 NOV 2012  
JOB REF.  
JOB ID. 9115  
CAD FILE